

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

Before Commissioners: Joseph T. Kelliher, Chairman;
 Nora Mead Brownell, and Sudeen G. Kelly

Southern Natural Gas Company

Docket No. RP05-684-000

ORDER ACCEPTING AND SUSPENDING TARIFF SHEETS
SUBJECT TO REFUND AND CONDITIONS

(Issued October 31, 2005)

1. On September 30, 2005, Southern Natural Gas Company (Southern) filed tariff sheets¹ that establish its initial maintenance capital surcharge (surcharge) at \$.0152 per decatherm (Dth). Southern requests that the Commission grant all necessary waivers to permit an effective date of November 1, 2005. The Commission accepts and suspends the proposed tariff sheets, permitting them to become effective on November 1, 2005, subject to refund and conditions.

Background

2. On April 29, 2005, Southern filed an Offer of Settlement in Docket Nos. RP04-523-000 and RP04-523-001, including a Stipulation and Agreement (settlement), which was approved by the Commission on July 13, 2005.² Pursuant to Article VIII of the settlement, section 31 of the General Terms and Conditions (GT&C) of Southern's tariff establishes a mechanism to recover through a volumetric surcharge the cost of service effect of certain capital maintenance expenditures.

3. Section 31.1 of Southern's tariff defines capital maintenance expenses as: all prudently incurred capital expenditures placed in-service after February 28, 2005 for pipeline systems repairs, improvements, replacements or for support of pipeline operations, including, but not limited to, improvements or updates of information systems

¹ Fourth Revised Sheet No. 26, Third Revised Sheet No. 27, Third Revised Sheet No. 28, Forty-Third Revised Sheet No. 29, and Twenty-Fifth Revised Sheet No. 30 to Southern's FERC Gas Tariff, Seventh Revised Volume No. 1.

² Unpublished Order, issued July 13, 2005.

or costs relating to the enhancement of system security, or in response to the U.S. Department of Transportation, U.S. Department of Interior, FERC, or other state or federal regulations or requirements or other safety or environmental laws or regulations, undertaken pursuant to FERC regulations governing such replacement, repair or construction (including facilities constructed under the provisions of Southern's blanket certificate authority). Maintenance Capital Expenditures shall not include (i) any costs attributable to an expansion of Company's system; (ii) any costs associated with construction of delivery points or receipt point facilities under section 6 of Rate Schedule FT, section 7 of Rate Schedule FT-NN or section 36 of these General Terms and Conditions; or (iii) those facilities constructed under the certificate order issued by the FERC in Docket No. CP04-340.

4. Section 31.1 also states that the charge will remain in effect no later than September 30, 2010. Section 31.2 describes how the surcharge is calculated and sets forth the components that are to be used to derive the cost of service that Southern uses for calculating the surcharge. Section 31.3 provides that Southern shall make its first annual filing with the Commission 30 days after the effective date of the rate settlement.

5. Also, section 31.3 provides that the surcharge for the first annual period shall reflect recovery of the cumulative cost of service for the year beginning March 1, 2005, and will be adjusted as described in the tariff. Further, sections 31.3 and 31.4 provide the formula that Southern uses to account for the limited number of days over which Southern can collect its initial annual surcharge and sets forth the annual rate surcharge caps for each of the five-year annual periods from March 2005 to February 2010. Applying this formula, Southern states that the applicable surcharge filed by Southern shall not exceed \$.0152 per Dth.

6. Finally, section 31.5 provides that Southern will file a final true-up filing within forty-five days following the expiration date of the surcharge as provided in section 31.1 to reconcile the projected and actual maintenance capital expenses.

7. Article VIII, Paragraph No. 4 of the settlement provides that:

recovery of costs through the Maintenance Capital Surcharge is subject to the Commission's determination in Docket No. AD05-1 regarding whether costs related to pipeline safety should be expensed or capitalized (Pipeline Safety Cost Rulemaking). To the extent the Commission finds in the Pipeline Safety Cost Rulemaking while the Maintenance Capital Surcharge is in effect that costs which would otherwise be included in the Maintenance Capital Surcharge are to be expensed, any affected amounts will be removed from the Maintenance Capital Surcharge Calculations as provided in the Commission order to the Pipeline Safety Cost Rulemaking.

In the event after such removal of the expensed amounts, the adjustments result in a negative balance to the cumulative expenditures which is not sufficient to reflect all affected amounts by the expiration of the Maintenance Capital Surcharge, refunds will be issued to Customers, pro rata based on previous contributions.

The Instant Filing

8. Pursuant to section 31 of its GT&C, Southern proposes to implement an initial surcharge of \$.0152 per Dth to be effective for the period November 1, 2005, through February 28, 2006. The proposed surcharge is based on a total cost of service of \$4,590,008, which includes both actual maintenance capital expenses of \$945,454 for the period March 1, 2005 through August 31, 2005, and projected maintenance capital expenses of \$3,644,554 for the period September 1, 2005 through February 28, 2006.

9. Southern states that the maintenance capital expenditures for March 1, 2005, through December 31, 2005, include costs that Southern considered as capitalized items prior to issuance of the Commission's *Order on Accounting for Pipeline Assessment Costs*.³ Southern claims that it did not capitalize any costs in its projected maintenance capital expenditures after December 31, 2005, which would not be allowed to be capitalized under the guidelines of the Accounting Order.

10. Southern states that total cost of service is divided by its actual annual billing determinants for 12-month period ending December 31, 2004, as adjusted per section 31.3 to account for the limited number of days in the initial collection period. Southern states that its calculation results in a surcharge rate of \$.0213 per Dth which is greater than the \$.0152 per Dth rate cap, therefore, Southern's proposed surcharge is at the cap. Finally, Southern states that it will reconcile the projected expenditures for the period September 1, 2005 through February 28, 2006 with the actual expenditures for the same period in its succeeding year's annual filing.

Notice of Filing, Interventions and Protests

11. Notice of Southern's filing was issued October 5, 2005 with interventions and protests due on or before October 12, 2005. Pursuant to Rule 214 (18 C.F.R. §385.214 (2003)), all timely filed motions to intervene and any motions to intervene out-of-time

³ 111 FERC ¶ 61,501 (2005), *order on reh'g*, 112 FERC ¶ 61,309 (2005) (Accounting Order).

filed by the issuance date of this order are granted. Nine parties⁴ filed comments or protests which are discussed below. On October 24, 2005, Southern filed an answer to the protests and comments. Pursuant to 18 C.F.R. §385.213 (2005), answers to protests are not permitted. In the instant circumstance, the Commission finds that the answer provides information useful in the examination of Southern's filing and therefore, the Commission accepts Southern's answer.

12. AMDG, Austell, Gas Authority, and Southeast Gas state that Southern's filing is unclear in terms of compliance with the Accounting Order and requests that Southern explicitly clarify that the pre-December 31, 2005 costs sought to be recovered include only those costs that Southern considered as capitalized prior to the issuance of the Accounting Order or exclude pre-December 31, 2005 costs from its proposed surcharge.

13. AGLC and CGC state that Southern fails to provide a line item showing the sum of the itemized expenditures and that Southern's filing does not contain an itemized list of projected capital expenditures that would verify the \$40,234,450.84 projected expenditures on its Schedule 3. AGLC and CGC state that without an itemization, customers would be unable to fully evaluate any final true-up filing and requests that the Commission require Southern to file a revised Schedule 3 showing the sum of the actual expenditures itemization and the itemization of the projected expenditures.

14. Columbia states that Southern's tariff provides for a relatively narrow band of project costs that can be included in the surcharge and asserts that Southern included many questionable project costs in its surcharge calculation. Columbia states that the parties should be given the opportunity to test the eligibility of the capital expenditures identified in Schedule 3 of the filing through discovery and if necessary through an evidentiary hearing, and requests that the surcharge be suspended for the maximum period subject to refund.

15. GIG requests that the Commission ensure that Southern has provided sufficient information to calculate the surcharge and that Southern has calculated the surcharge properly.

⁴ The nine parties that filed comments or protests are Alabama Municipal Distributors Group (AMDG), Atlanta Gas Light Company (AGL) and Chattanooga Gas Company (CGC), Austell Gas System (Austell), Columbia Energy Center L.L.C. (Columbia), Georgia Industrial Group (GIG), Municipal Gas Authority of Georgia (Gas Authority), Peoples Gas System, Division of Tampa Electric Company (Peoples), and Southeast Alabama Gas District (Southeast Gas).

16. Finally, Peoples claims that Southern has not provided sufficient information in its filing to determine whether certain expenditures are eligible or prudent, or have not already been included in the settlement cost of service. Peoples request that the Commission establish procedures that permit affected customers to seek and obtain further review regarding the claimed expenditures, and once informed to challenge any expenditure that appear unqualified through deficiency letters before the surcharge is accepted. Further, Peoples states that Southern's filings does not reflect clear compliance with the Accounting Order.

Discussion

17. Southern's answer purports to address all the issues raised by the parties. However, before we respond to the issues raised in this proceeding, we will allow the parties to respond to Southern's answer. Therefore, the Commission accepts the proposed tariff sheets, subject to further review and subject to allowing the parties twenty (20) days to respond to Southern's answer.

Suspension

18. Based upon a review of the filing, the Commission finds that the proposed tariff sheets have not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory or otherwise unlawful. Accordingly, the Commission shall accept the tariff sheets for filing and suspend their effectiveness for the period set forth below, subject to the conditions set for in this order.

19. The Commission's policy regarding suspensions is that filings generally should be suspended for the maximum period permitted by statute where preliminary study leads the Commission to believe that the filing may be unjust, unreasonable, or inconsistent with other statutory standards.⁵ It is recognized, however, that shorter suspensions may be warranted in circumstances where suspension for the maximum period may lead to harsh and inequitable results.⁶ Such circumstances exist here where the pipeline is filing to establish a surcharge pursuant to a settlement. Accordingly, the Commission exercises its discretion to suspend the effectiveness of the proposed tariff sheets for a shorter period

⁵ See *Great Lakes Gas Transmission Co.*, 12 FERC & 61,293 (1980) (five-month suspension).

⁶ See *Valley Gas Transmission, Inc.*, 12 FERC & 61,197 (1980) (one-day suspension).

and permits the rates to be effective November 1, 2005, subject to refund and the conditions of this order.

The Commission orders:

(A) The Commission accepts and suspends the tariff sheets, to be effective November 1, 2005, subject to refund, and subject to further review and subject to the conditions set forth in this order.

(B) The parties are permitted to file a response to Southern's answer within twenty (20) days of the date of this order.

By the Commission.

(S E A L)

Magalie R. Salas,
Secretary.